

**THE MINUTES OF THE HOUSE STANDING COMMITTEE
ON
JUDICIARY**

Wednesday, September 21, 2005 10:30 a.m.

Room 308 House Office Building

The House Standing Committee on Judiciary was called to order by **Representative William Van Regenmorter**, Chair.

MEMBERS PRESENT: Representatives Van Regenmorter, Schuitmaker, Newell, Nofs, Stakoe, Elsenheimer, Jones, David Law, Rocca, Lipsey, Condino, Adamini, Bieda and Virgil Smith.

MEMBERS ABSENT/EXCUSED: Representative McConico.

Chairman Van Regenmorter laid **SB 423** before the committee:

SB 423 Gilbert	Criminal procedure; sentencing guidelines; sentencing guidelines for crime of unlawful delivery of a controlled substance resulting in the death of another person; enact.
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Representative Elsenheimer moved to report **SB 423** with recommendation. The motion was supported by **Representative Stakoe**.

The motion prevailed by a vote of **11-1-0**.

FAVORABLE ROLL CALL:

Yeas: Representatives Van Regenmorter, Schuitmaker, Newell, Stakoe, Elsenheimer, Jones, David Law, Rocca, Lipsey, Condino and Adamini,

Nays: Representative Virgil Smith,

Pass: None.

Chairman Van Regenmorter laid **HB 4796, HB 4797, HB 4799** and **HB 4800** before the committee:

HB 4796 McConico	Criminal procedure; preliminary examination; right to preliminary examination for certain crimes; eliminate.
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HB 4797 Elsenheimer	Criminal procedure; preliminary examination; right to preliminary examination for certain crimes; eliminate.
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HB 4799 Van Regenmorter Criminal procedure; preliminary examination; right to preliminary examination for certain crimes; eliminate.

HB 4800 Van Regenmorter Criminal procedure; preliminary examination; right to preliminary examination for certain crimes; eliminate.

TESTIMONY

Deena Bosworth, representing the Office of the Attorney General, testified in support of the bills.

Ken Mogill, representing the ACLU, testified in opposition to the bills.

Ron Bretz, professor at Cooley Law School, representing the ACLU, testified in opposition to the bills.

Ron Frantz, Prosecuting Attorney for Ottawa County, testified in support of the bills.

George Basar, representing the Michigan Association of Chiefs of Police, testified in support of the bills.

Judge Quinn Benson, representing the Michigan District Judges Association, testified in opposition to the bills.

Blaine Koops, representing Allegan County/Michigan Sheriffs, testified in support of the bills.

Michael Thomas, Prosecuting Attorney for Saginaw County, testified in support of the bills.

Tim Ward, representing the Michigan Judges Association, submitted a card in opposition to the bills and did not wish to speak.

John Buczek, representing the Fraternal Order of Police, submitted a card in support of the bills and did not wish to speak.

Frank Cusmano, representing the Michigan Municipal League, submitted a card in support of the bills and did not wish to speak.

Rich Weiler, representing the Michigan Association of Police Organizations, submitted a card in support of the bills and did not wish to speak.

Due to time constraints the following people were unable to speak:

Paul Stevenson, representing the Justice Caucus, submitted a card in opposition to the bills.

Tom Hickson, representing the Michigan Association of Counties, submitted a card in support of the bills with the Condino amendment.

Representative Rocca moved to adopt the substitute **(H-1)** to **HB 4796**. The motion was supported by **Representative Jones**.

The motion prevailed by a vote of **12-0-0**.

FAVORABLE ROLL CALL:

Yeas: Representatives Van Regenmorter, Schuitmaker, Newell, Stakoe, Elsenheimer, Jones, David Law, Rocca, Lipsey, Condino, Adamini and Virgil Smith,

Nays: None,

Pass: None.

Representative Newell moved to adopt the following amendments to **HB 4796 (H-1)**. The motion was supported by **Representative Condino**.

1. Amend page 2, line 14, after "**DEFENDANT.**" by inserting "**IN ACCORDANCE WITH THE CRIME VICTIM'S RIGHTS ACT, 1985 PA 87, MCL 780.751 TO 780.834,**".

2. Amend page 3, following line 10, by inserting:

"Enacting section 1. This amendatory act takes effect August 1, 2006."

The motion prevailed by a vote of **13-0-0**.

FAVORABLE ROLL CALL:

Yeas: Representatives Van Regenmorter, Schuitmaker, Newell, Nofs, Stakoe, Elsenheimer, David Law, Rocca, Lipsey, Condino, Adamini, Bieda and Virgil Smith,

Nays: None,

Pass: None.

Representative Condino moved to adopt the following amendment to **HB 4796 (H-1)**. The motion was supported by **Representative Elsenheimer**.

1. Amend page 2, line 22, after "**PRESENTED.**" by inserting "**THE PROSECUTING ATTORNEY SHALL PROVIDE THE DEFENDANT AND HIS OR HER ATTORNEY WITH ALL OF THE FOLLOWING INFORMATION RELATING TO THE CASE DURING A CONFERENCE HELD UNDER THIS SUBSECTION:**

(A) A COPY OF EACH INVESTIGATIVE REPORT PREPARED BY OR ON BEHALF OF LAW ENFORCEMENT.

(B) A COPY OF EACH WITNESS STATEMENT.

(C) A COPY OF EACH RECORDED CONFESSION AND, IF THE CONFESSION WAS TRANSCRIBED, A COPY OF THAT TRANSCRIPTION."

The motion prevailed by a vote of **13-0-0**.

FAVORABLE ROLL CALL:

Yeas: Representatives Van Regenmorter, Schuitmaker, Newell, Nofs, Stakoe, Elsenheimer, David Law, Rocca, Lipsey, Condino, Adamini, Bieda and Virgil Smith,

Nays: None,

Pass: None.

Representative Adamini moved to table **HB 4796**. The motion was supported by **Representative Bieda**.

The motion did not prevail by a vote of **4-9-0**.

UNFAVORABLE ROLL CALL:

Yeas: Representatives Lipsey, Adamini, Bieda and Virgil Smith,
Nays: Representatives Van Regenmorter, Schuitmaker, Newell, Nofs, Stakoe, Elsenheimer, David Law, Rocca and Condino,
Pass: None.

Representative David Law moved to report **HB 4796** with recommendation, as substitute **(H-3)**. The motion was supported by **Representative Rocca**.

The motion prevailed by a vote of **9-2-2**.

FAVORABLE ROLL CALL:

Yeas: Representatives Van Regenmorter, Schuitmaker, Newell, Nofs, Stakoe, Elsenheimer, David Law, Rocca and Condino,
Nays: Representatives Bieda and Virgil Smith,
Pass: Representatives Lipsey and Adamini.

Representative Schuitmaker moved to adopt the substitute **(H-1)** to **HB 4797**. The motion was supported by **Representative Nofs**.

The motion prevailed by a vote of **10-0-3**.

FAVORABLE ROLL CALL:

Yeas: Representatives Van Regenmorter, Schuitmaker, Newell, Nofs, Stakoe, Elsenheimer, David Law, Rocca, Lipsey and Condino,
Nays: None,
Pass: Representatives Adamini, Bieda and Virgil Smith.

Representative David Law moved to adopt the following amendment to **HB 4797**. The motion was supported by **Representative Elsenheimer**.

1. Amend page 18, following line 5, by inserting:
“Enacting section 1. This amendatory act takes effect August 1, 2006.” and renumbering the remaining enacting section.

The motion prevailed by a vote of **10-0-3**.

FAVORABLE ROLL CALL:

Yeas: Representatives Van Regenmorter, Schuitmaker, Newell, Nofs, Stakoe, Elsenheimer, David Law, Rocca, Lipsey and Condino,
Nays: None,
Pass: Representatives Adamini, Bieda and Virgil Smith.

Representative Newell moved to report **HB 4797** with recommendation, as substitute **(H-2)**. The motion was supported by **Representative Stakoe**.

The motion prevailed by a vote of **9-3-0**.

FAVORABLE ROLL CALL:

Yeas: Representatives Van Regenmorter, Schuitmaker, Newell, Nofs, Stakoe, Elsenheimer, David Law, Rocca and Condino,

Nays: Representatives Lipsey, Adamini and Bieda,

Pass: None.

Representative Elsenheimer moved to adopt the following amendments to **HB 4799**. The motion was supported by **Representative Newell**.

1. Amend page 2, line 14, after “**DISTRICT**” by inserting “**OR MUNICIPAL**”.
2. Amend page 2, following line 27, by inserting:
“Enacting section 1. This amendatory act takes effect August 1, 2006.” and renumbering the remaining enacting section.”.

The motion prevailed by a vote of **13-0-0**.

FAVORABLE ROLL CALL:

Yeas: Representatives Van Regenmorter, Schuitmaker, Newell, Nofs, Stakoe, Elsenheimer, David Law, Rocca, Lipsey, Condino, Adamini, Bieda and Virgil Smith,

Nays: None,

Pass: None.

Representative Nofs moved to report **HB 4799** with recommendation, as substitute **(H-1)**. The motion was supported by **Representative Schuitmaker**.

The motion prevailed by a vote of **9-4-0**.

FAVORABLE ROLL CALL:

Yeas: Representatives Van Regenmorter, Schuitmaker, Newell, Nofs, Stakoe, Elsenheimer, David Law, Rocca and Condino,

Nays: Representatives Lipsey, Adamini, Bieda and Virgil Smith,

Pass: None.

Representative Condino moved to adopt the following amendment to **HB 4800**. The motion was supported by **Representative David Law**.

1. Amend page 2, line 5, after “effect” by striking out the balance of the enacting section and inserting “August 1, 2006.”.

The motion prevailed by a vote of **13-0-0**.

FAVORABLE ROLL CALL:

Yeas: Representatives Van Regenmorter, Schuitmaker, Newell, Nofs, Stakoe, Elsenheimer, David Law, Rocca, Lipsey, Condino, Adamini, Bieda and Virgil Smith,

Nays: None,

Pass: None.

Representative Elsenheimer moved to report **HB 4800** with recommendation, as substitute **(H-1)**. The motion was supported by **Representative Stakoe**.

The motion prevailed by a vote of **9-4-0**.

FAVORABLE ROLL CALL:

Yeas: Representatives Van Regenmorter, Schuitmaker, Newell, Nofs, Stakoe, Elsenheimer, David Law, Rocca and Condino,

Nays: Representatives Lipsey, Adamini, Bieda and Virgil Smith,

Pass: None.

Representative Condino moved to excuse absent members from committee. The motion was supported by **Representative Bieda**. There being no objection, the motion prevailed by unanimous consent.

Representative Nofs moved to adopt the minutes of the **September 14, 2005** meeting. The motion was supported by **Representative Elsenheimer**. There being no objection, the motion prevailed by unanimous consent.

There being no further business to come before the committee, the Chair adjourned the meeting at 12:27 p.m.

Representative William Van Regenmorter, Chair
House Standing Committee on Judiciary

Malika Abdur-Rashid

Committee Clerk

517-373-7256

1 hr. 57 minutes